

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**John M. Crampton USA No. 3 Inc.,**

Petitioner-Appellant,

**v.**

**City of Davenport Board of Review,**

Respondent-Appellee.

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**ORDER**

**Docket No. 10-103-0685**

**Parcel No. 02112A11**

On January 11, 2012, the above captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board under Iowa Code sections 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant John M. Crampton USA No. 3 Inc. (USA) was represented at hearing by John Griffin, manager of USA. The City of Davenport Board of Review was represented by City Attorney Tom Warner. Both parties submitted additional evidence for consideration. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

USA, owner of a commercially classified property located at 2404 N Lincoln Avenue, Davenport, Iowa, appeals from the City of Davenport Board of Review regarding its 2010 property assessment. The January 1, 2010, assessment is allocated as follows: \$107,600 in land value and \$385,500 in improvement value for a total assessment of \$493,100.

The subject property is a mini-storage warehouse facility. Improvements include three warehouse buildings. The first building, built in 2002, has 6300 square feet of total building area with total of fifty overhead doors. The second building, also built in 2002, has 8400 square feet of total building area and forty-six overhead doors. The third building, built in 2009, has 6300 square feet of

total building area and forty-two overhead doors. There is also a 900 square-foot metal utility building, built in 1976 and 14,580 square feet of concrete paving. The site is 1.86 acres.

USA protested its assessment to the City of Davenport Board of Review. On the protest it asserted that there is an error in the assessment under Iowa Code section 441.37(1)(c) essentially claiming the property is assessed for more than the value authorized by law under section 441.37(1)(b). It also claimed that there has been a change downward in value since the last assessment under sections 441.37(1) and 441.35. The statement in regarding this claim is also essentially asserting the subject property is over-assessed. Additionally, in a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Therefore, we consider USA's only claim to the Board of Review is whether the property is over-assessed.

The Board of Review denied the appeal.

USA then appealed to this Board and reasserted its claim. It contends the correct and fair market value of the property is \$365,700, allocated as \$50,200 in land value and \$315,500 in improvement value.

USA asserts it purchased the property in 2007 for \$468,000. However, it claims this price was allocated as \$268,000 for the land and buildings; \$147,000 for the business; and \$53,000 was put into escrow for repairs, clean-up, and a fence. Therefore, it asserts the actual price paid for the property was \$268,000. John Griffin, manager for USA, provided additional documentation at the request of this Board to support USA's claim of what was actually paid for the subject property. In a letter, he stated there were no legal papers on file to verify the figures. However, "there was a verbal agreement on the sales price of the property for \$268,000 and the business value of \$160,000." Griffin attached a copy of an escrow agreement confirming a total of \$23,490, for the following items: wood fence, building permit, and fix and repair buildings. Additionally, \$28,125.67 was placed in escrow to be

released when specific judgments against the seller were satisfied. The total escrow funds were \$51,615.67. Because the sale price was subject to escrow and appears that it may have been a distressed property as a result, as well as the sale having occurred in 2007, we give the actual sales price no consideration.

USA submitted four “like-use land parcels” in Scott County as comparables. The properties are located at 24 Oakbrook Place, Bettendorf; 5507 Valley Drive, Bettendorf; 2399 Trent Street, LeClaire; and 3021 Hickory Grove Road, Davenport. USA indicates these sites are assessed from \$0.48 to \$0.99 per square foot compared to the subject’s assessment of \$1.32 per square foot. In essence, USA is asserting inequity in the assessments; however, that claim is not before this Board. None of the properties have sold recently and no comparison was made between these properties and the subject property to support a claim of over-assessment.

City of Davenport Deputy Assessor Tom McManus testified that two contributing factors which resulted in the increased assessment for the subject property. First, USA constructed a third storage facility on the site in 2009, which increased the improvement value. Second, the assessor’s office had completed a city-wide commercial revaluation in 2010, and a land revaluation occurred simultaneously, which contributed to the increase in the land value. In his opinion, McManus testified the subject property was assessed under market until 2010. McManus also testified the property was valued by the income approach, which does not value land separately.

McManus referred to Exhibit E, an aerial of the subject’s immediate area with land rates for each parcel. He believes this document demonstrates equity in the land values taking into consideration site size, topography, and shape.

McManus also looks at five comparable sales of mini-warehouses (Exhibit J). These properties sold from \$330,000 to \$950,000 and had a price per square foot from \$23.97 to \$27.50. One sale occurred in 2004; two in 2007; and the remaining two occurred between 2009 and 2010. He believes

this demonstrates equity when comparing the unadjusted price per square foot to the subject's 2010 assessed value per square foot of \$23.48. We note that three of the sales are older, although this may be reasonable given the limited number of sales that would occur of this facility type at any given time. However, the analysis is more like an equity analysis rather than a sales comparison analysis to determine market value for over-assessment.

McManus testified regarding the income approach, however was unclear on whether the 8% capitalization rate (cap rate) used to value the property, was based on a direct cap rate or yield cap rate methodology. He was also unaware of the details that went into creating the cap rate. He indicated the income approach was used instead of the sales comparison approach because there were few sales to consider for analysis and because it was a commercial property and therefore, was considered the best indicator of value.

McManus was unable to answer, when asked, if there was a requirement to develop the sales comparison approach to value first. We note the sales comparison approach is the required and preferred method of valuing property for tax assessment purposes. Only if the value cannot readily be determined using comparable sales, may "other factors" such as the income or cost approaches be considered. We also note 441.21(1)(h) requires assessors to use the *Iowa Real Property Manual* in valuing property. Although McManus indicated there were few sales available for analysis, he also testified the assessor's office went directly to the income approach because this was a commercial property. We also note that when developing a sales comparison analysis, sale from outside of the taxing jurisdiction may be used.

The income analysis was based on market rents rather than actual rents, which is the proper method. McManus testified that while a 20% vacancy rate was applied to the assessment, the income analysis was based on the existence of three buildings even though one of the buildings had not been built until the Fall of 2009. He testified that the property was assessed for what existed as of January

1, 2010. He also stated that had an improvement been removed, even if just days prior to a January 1, assessment, the value would reflect what existed as of that assessment date. In other words, the subsequent assessment would not value a building that no longer existed, even if it existed for a majority of the year prior.

Reviewing all the evidence, we find the preponderance of evidence does not support USA's claim. The burden of proof lies with USA, and it failed to show that the property was assessed for more than authorized by law.

### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Ily-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If

sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2).


The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

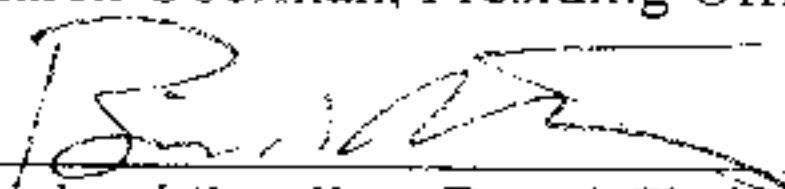
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). USA did not offer any market evidence of what it believes to be the correct value of the subject property. Likewise, while USA asserted the sales price of the subject property in 2007 was lower, we note from the wording of section 441.21(1)(b) that a sales price for the subject property in a normal transaction just as a sales price of a comparable property is a matter to be considered in arriving at market value but does not conclusively establish that value. We question whether the 2007 was representative of an arm's length transaction. Additionally, we are hesitant to rely on a 2007 sale for a 2010 assessment.

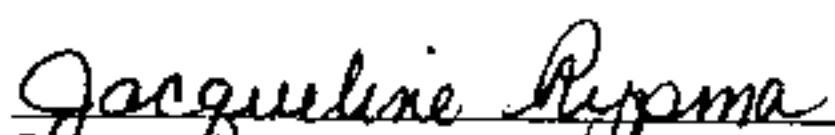
Therefore, we affirm the assessment of the property owned by John M. Crompton USA No. 3 Inc. as determined by the City of Davenport Board of Review, as of January 1, 2010.

THE APPEAL BOARD ORDERS the assessment of John M. Crompton USA No. 3 Inc.'s property located at 2404 N Lincoln Avenue, Davenport, Iowa, of \$493,100, as of January 1, 2010, set by City of Davenport Board of Review, is affirmed.

Dated this 22 day of February, 2012.

  
Karen Oberman, Presiding Officer

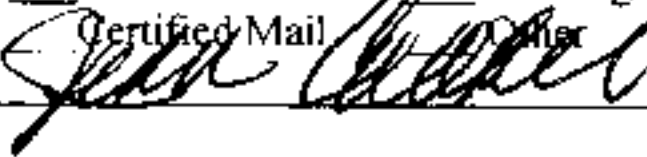
  
Richard Stradley, Board Chair

  
Jacqueline Rypma, Board Member

Cc:

John M. Crampton USA No. 3 Inc.  
2501 N Lincoln Avenue  
Davenport, Iowa 52804  
APPELLANT

Tom Warner  
City Attorney  
226 W 4th Street  
Davenport, Iowa 52801  
ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>2-22</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u></u>